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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,745	01/30/2004	Christian Bauer	713-1003	9896
33712	7590	12/09/2004	EXAMINER	
LOWE, HAUPTMAN, GILMAN & BERNER, LLP (ITW) 1700 DIAGONAL ROAD SUITE 300 ALEXANDRIA, VA 22314			WUJCIAK, ALFRED J	
		ART UNIT		PAPER NUMBER
				3632

DATE MAILED: 12/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	BAUER, CHRISTIAN
Examiner Alfred Joseph Wujciak III	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1) Responsive to communication(s) filed on 30 January 2004.

2a) This action is FINAL.                  2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

4) Claim(s) 1-11 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-11 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 30 January 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>1/30/04 &amp; 6/30/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## **DETAILED ACTION**

This is the first Office Action for the serial number 10/767,745, RETAINING MEMBER, filed on 1/30/04.

### ***Specification***

The abstract of the disclosure is objected to because the applicant used claim 1 in the abstract section, which is improper. The abstract requires a brief narrative of the disclosure, see MPEP 608.01 (b). Correction is required. See MPEP § 608.01(b).

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 6/30/04 was filed after the mailing date of the filing date on 1/30/04. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Claims 1-2 recite the limitation "at the inside" in claim 1 lines 5-6 and claim 2 lines 2-3.

There is insufficient antecedent basis for this limitation in the claim.

Claims 10-11, line 3, "the width of the ribs" is indefinite because the examiner does not know which ribs (larger or smaller) the applicant is claiming.

Claims 3-11 are rejected as depending on rejected claim 1.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4 and 7-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 5,464,179 to Ruckwardt in view of US Patent # 4,260,123 to Ismert.

Ruckwardt teaches a retaining member (1) in plastic (col. 2, lines 60-63) comprising a basic body (2) with a mounting area (4) and at least one retaining area (13) with at least one line seating (5). The member comprises a line seating (5) having a resilient rib (19). The line seating has a lining (3), which is made of a non-rigid plastic material (col. 2, lines 61-62). The line seating is formed in a substantially cylindrical, elastic cup having an insertion slot (17).

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Ruckwardt teaches the rib but fails to teach the line seating having a plurality of ribs.

Ismert teaches the plurality of ribs (25) are oriented in the circumferential direction of the line seating and the ribs are arranged at least partially in parallel. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added additional ribs to Ruckwardt's line seating as taught by Ismert to provide additional vibration reduction for a line or pipe within the line seating so that the vibration from line or pipe would not transmit to the base body and a support.

Claims 5-6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckwardt in view of Ismert in further view of US Patent # 6,126,119 to Giangrasso.

Ruckwardt in view of Ismert teaches the ribs but fails to teach the ribs are alternately projecting at a larger and smaller overhang inside of the line seating. Giangrasso teaches the ribs (14) are alternatively projecting at a larger (located on both side in the middle with longer ribs) and smaller overhang inside of the line seating. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Ruckwardt in view of Ismert's ribs with alternatively larger and smaller inside of the line seating as taught by Giangrasso to provide designer's preference for size of ribs in the line seating for supporting the line or pipe.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 5,033,701 to Kraus

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US Patent # 5,458,303 to Ruckwardt

US Patent # 4,467,988 to Kraus

US Patent # 5,947,426 to Kraus

US Patent # 6,070,836 to Battie et al.

US Patent # 6,290,201 to Kanie et al.

US Patent # 2001/0019091 to Nakanishi

US Patent # 2002/0063189 to Coudrais

US Patent # 2004/0065785 to Miura et al.

US Patent # 2004/0113027 to Nakanishi

US Patent # 2004/0144897 to Maruyama

US Patent # 2004/0217236 to Shibuya

Kraus, Ruckwardt, Battie et al., Kanie et al., Coudrais, Miura et al., Nakanishi, Maruyama and Shilbuya teach the retaining member for supporting the line or pipe.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III

Examiner

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12/6/04

A handwritten signature in black ink, appearing to read "A. Joseph Wujciak III".